

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

TINA CLAWSON and PATRICIA NEIS,

Plaintiffs,

vs.

No. CIV 99-379 MV/RLP

SOUTHWEST CARDIOLOGY ASSOCIATES, P.A.,
a corporation, and WILLIAM BENGE, M.D., an individual,

Defendants.

ORDER

THIS MATTER is before the Court on Plaintiffs' Motion for Jury Trial on Damages, filed August 27, 1999 [**Doc. No. 41**], Defendants' Motion for Mental Examination Pursuant to Rule 35, filed October 7, 1999 [**Doc. No. 62**], Plaintiffs' Motion for Rule 37 Sanctions against Defendants, filed October 28, 1999 [**Doc. No. 65**], and Plaintiffs' Motion to Compel Defendant Benge to Produce Documents, filed November 3, 1999 [**Doc. No. 69**].

Based on the reasons given at the status conference on March 1, 2000, the Court orders as follows:

Plaintiffs' Motion for Jury Trial on Damages [**Doc. No. 41**] is hereby **denied**. The Court will hold a bench trial to determine damages. The parties should submit a letter to the Court with their trial estimates no later than 90 days from the date of this Order, and the Court will attempt to give the parties a trial setting within six months.

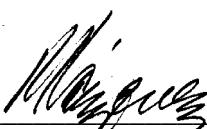
The parties must complete all discovery within 90 days, and must present their discovery plan to Judge Puglisi.

Defendants' Motion for Mental Examination Pursuant to Rule 35 [**Doc. No. 62**] is hereby **granted**. Because Plaintiff Clawson is pregnant and is due to deliver her child in mid- May, the Court orders that her evaluation be conducted within the next two weeks and that the report regarding her evaluation be submitted to opposing counsel within the next 30 days.

Plaintiffs' Motion to Compel Defendant Benge to Produce Documents [**Doc. No. 69**] is hereby **granted**.

Plaintiffs' Motion for Rule 37 Sanctions against Defendants for failure to attend properly noticed depositions [**Doc. No. 65**] is hereby **denied**. Defendants should have sought a written order regarding whether discovery had been halted. Moreover, Defendants' current counsel should have complied with the discovery deadline agreed to by former counsel. However, because there was substantial confusion regarding discovery after default judgment was entered, the Court finds that sanctions are not warranted.

DATED this 2nd day of March, 2000.



MARTHA VALQUEZ
U. S. DISTRICT JUDGE

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